

AMENDED IN ASSEMBLY APRIL 17, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 2348**

---

**Introduced by Assembly Members Laird and Salinas**

February 23, 2006

---

An act to add Section 12687.5 to the Water Code, relating to water.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2348, as amended, Laird. Flood control: Pajaro River.

~~(1) Existing law provides for state cooperation with the federal government in the construction of specified flood control projects, and prescribes requirements to be met prior to state authorization of flood management projects that receive state financial aid.~~

~~This bill would authorize the state to provide subvention funds to the Counties of Monterey and Santa Cruz, or to local agencies in those counties, for a flood control project on the Pajaro River, as described, at an estimated cost to the state of the sum that may be appropriated for state cooperation by the Legislature upon the recommendation and advice of the department and upon a determination by the department that the project meets those financial aid requirements. The bill would provide that the state assumes no liability for damages that may result from the project by authorizing the provision of subvention funds, or by the appropriation of those subvention funds, as specified. adopt and authorize a flood control project on the Pajaro River in the Counties of Monterey and Santa Cruz, upon a specified determination by the Department of Water Resources, at an estimated cost to the state of the sum that may be~~

~~appropriated by the Legislature for state cooperation, as prescribed. The bill would require the Counties of Monterey and Santa Cruz to carry out the project and to give prescribed assurances to the Secretary of the Army, thereby imposing a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~ no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 12687.5 is added to the Water Code, to  
2     read:  
3     12687.5. (a) The state may provide subvention funds in  
4     accordance with Section 12582.7 to the Counties of Monterey  
5     and Santa Cruz, or to local agencies in those counties, for the  
6     project for flood control on the Pajaro River in the Counties of  
7     Monterey and Santa Cruz, authorized by the Flood Control Act  
8     of 1966 (Public Law 89-789), that is substantially in accordance  
9     with the recommendations of the Chief of Engineers of the United  
10    States Army Corps of Engineers in House Document 491, 89th  
11    Congress, as follows:  
12    (1) At an estimated cost to the state of the sum that may be  
13    appropriated for state cooperation by the Legislature upon the  
14    recommendations and advice of the department.  
15    (2) Upon a specific written determination by the department  
16    that the project meets the requirements of Section 12582.7.  
17    (b) The state assumes no liability for damages that may result  
18    from the project by either of the following:  
19    (1) Authorizing the provision of subvention funds in  
20    accordance with this section.  
21    (2) The appropriation by the Legislature of these subvention  
22    funds upon the recommendations and advice of the department.  
23    (c) A county or local agency may receive the subvention funds  
24    only if it enters into an agreement with the department pursuant  
25    to which the county or local agency agrees to indemnify and hold

1 *and save harmless the state, its officers, agents, and employees*  
2 *for any and all liability for damages that may result from the*  
3 *project.*

4 *(d) For the purposes of this section, "liability for damages"*  
5 *includes, but is not limited to, liability for damages relating to*  
6 *the construction or operation of the project or the failure of the*  
7 *project to operate as intended.*

8 ~~SECTION 1. Section 12687.5 is added to the Water Code, to~~  
9 ~~read:~~

10 ~~12687.5. (a) (1) Subject to paragraph (2), the project for~~  
11 ~~flood control on the Pajaro River in the Counties of Monterey~~  
12 ~~and Santa Cruz, authorized by the Flood Control Act of 1966~~  
13 ~~(Public Law 89-789), is hereby adopted and authorized~~  
14 ~~substantially in accordance with the recommendations of the~~  
15 ~~Chief of Engineers of the United States Army Corps of Engineers~~  
16 ~~in House Document 491, 89th Congress, at an estimated cost to~~  
17 ~~the state of the sum that may be appropriated for state~~  
18 ~~cooperation by the Legislature upon the recommendations and~~  
19 ~~advice of the department.~~

20 ~~(2) The adoption and authorization of the project described in~~  
21 ~~paragraph (1) are contingent upon a determination by the~~  
22 ~~department that the project meets the requirements set forth in~~  
23 ~~Section 12582.7.~~

24 ~~(b) The Counties of Monterey and Santa Cruz shall give~~  
25 ~~assurances satisfactory to the Secretary of the Army that the local~~  
26 ~~cooperation required by federal law will be furnished by these~~  
27 ~~counties in connection with the project for flood control adopted~~  
28 ~~and authorized in subdivision (a).~~

29 ~~(c) The Counties of Monterey and Santa Cruz, in conjunction~~  
30 ~~with the Department of the Army, shall carry out the plans and~~  
31 ~~project and may make modifications and amendments to the~~  
32 ~~plans as may be necessary to carry out the plans for the purposes~~  
33 ~~of Chapter 1 (commencing with Section 12570) and this chapter.~~

34 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
35 ~~Section 6 of Article XIII B of the California Constitution because~~  
36 ~~the only costs that may be incurred by a local agency or school~~  
37 ~~district are the result of a program for which legislative authority~~  
38 ~~was requested by that local agency or school district, within the~~

- 1 ~~meaning of Section 17556 of the Government Code and Section~~
- 2 ~~6 of Article XIII B of the California Constitution.~~

O